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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,915	07/07/2003	Duncan F. Campbell	149-13	6930

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EXAMINER
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NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/612,915

Applicant(s)

CAMPBELL, DUNCAN F.

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2003 and 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-14, 21-23, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10-07-03; 08-18-04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: Copy of the paper filed 02/02/2005.

### **DETAILED ACTION**

This Office action is in response to (a) the application filed July 7, 2003 and (b) the election filed January 21, 2005 which was accompanied by an amendment by which claims 6 and 11 were amended, claims 15-20 were canceled, and claims 21-25 and 26 were added.

#### ***Election/Restriction***

Applicant's election without traverse of Group I, i.e., claims 1-14, and species (a), i.e., Figures 1-8 in the reply filed on January 21, 2005 is acknowledged. Applicant's notation that claim 1 is believed to be generic is acknowledged and agreed with.

With respect to (original) claim 11 and (newly added) claim 24, it is noted that these claims do not read on the elected species of Figures 1-8, i.e., the structure associated with claims 11 and 24 can be seen in Figure 9. *Accordingly*, claims 11 and 24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

#### ***Information Disclosure Statement***

With respect to the paper filed February 2, 2005, it appears that applicant intended the information listed thereon to define prior art. *However*, the information listed on the paper filed February 2, 2005 is not in the proper format, i.e., it has not been cited on a PTO-1449 form. *Accordingly*, all such references listed thereon have been lined through and a copy of this paper has been supplied herewith with notations explaining how the references have been treated. A detailed explanation follows.

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It is noted that Patent Nos. 4,936,468, 5,855,480, and 6,427,853 were listed by applicant on the PTO-1449 form filed August 18, 2004. *Further*, applicant listed and supplied copies of the following foreign patents with the PTO-1449 form filed August 18, 2004: EP 0213782 and WO 02/094551.

The examiner has cited the following patents on the attached PTOL-892 form: 6,416,612, 6,533,130, and 6,578,718. *Also*, it is noted that applicant submitted a copy of the foreign Patent No. GB 2182845 with the paper filed February 2, 2004 but failed to properly list this patent on an IDS. *Accordingly*, this patent has been listed on the PTOL-892 form submitted herewith.

*Further*, the paper filed February 2, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each non-patent literature publication or that portion which caused it to be listed, i.e., "Do Little, Sell Lots. Borden Home Wall Coverings". It has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

The drawings are objected to because Figure 1 contains elements that are not linked in any way, i.e., it is unclear whether this figure is intended to depict the elements being assembled. If so, then assembling lines or a bracket should be inserted therein. *Otherwise*, the drawing should be corrected to overcome this objection.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 21, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The language of claims 1, 21, and 26 renders the claims indefinite since the preamble is contradictory to what the claim language sets forth. *In particular*, the preamble *functionally* sets forth the samples through the recitation "for displaying" while the body of the claim(s) is *positively* reciting the samples (see sections (b) and (c)). To correct this and to clarify applicant's position for the record, *it is suggested* that "for displaying samples of wallpaper" in line 1 be deleted.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-4, 6-10, 12, 21-23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,331,245 (Schell '245), alone.

Schell '245 discloses a system comprises a display stand (1) having a frame (15-18) and at least one panel (21) secured to the frame (15-18) and the panel having a generally vertically extending front surface; a plurality of display samples (4) affixed to the front surface and arranged in a pattern defining a grid of rows and columns; a plurality of pre-cut take home samples (11) *correlated* with the display samples (4) wherein the take-home samples are sized to be smaller than the display samples (4); a plurality of containers (9) sized and shaped for removably holding a supply pf the take-home samples (11) wherein the containers (9) are each secured to the panel (21) *in front*, i.e., not shown - behind element 21 in Figure 1 is defined as the front, of a pre-selected portion of one of the display samples (4) so as to expose a significant portion, i.e., all or more than 50%, of the display samples (4); the at least one panel (21) comprises securing means (at 22) for removably securing the panel (21) to the frame (15-18); with respect to claim 12, the system comprising a sample book (one of 4)

The claims differ from Schell '245 in requiring: (a) a plurality of wallpaper samples (claims 1, 21, ad 26), (b) the panel to have a plurality of panels (claim 6), (c) each display sample in the pattern to have a dominant color (claim 7), (d) each dominant color of the display to correspond to a visible color band on a rainbow (claim 8), (e) each display sample has a shade and the pattern is selected to arrange the samples in progressively darker shades (claim 9), and (f) each display sample has a dominant color and shade and the pattern is selected to organize the samples by color and shade (claim 10).

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*With respect to (a)*, although Schell '245 shows the system used with carpet samples, It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the system with wallpaper samples since the system can hold wallpaper samples, i.e., wallpaper samples can be generally the same shape and size as carpet samples, thereby increasing storage capabilities of the system.

*With respect to (b)*, although Schell '245 shows only one display panel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a plurality of panels, for ease in assembly and use since the panels can be removed and replaced more easily.

*With respect to (c)-(f)*, although Schell '245 does not show or discuss the colors and shades of the samples and the arrangement of these in the system, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have provided colored and shaded samples and to have arranged the samples in such a way as called for in the claims, for increased aesthetic appeal and organizational capabilities.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schell '245 as applied to claims 1-4, 6-10, 12, 21-23, 25, and 26 above, and further in view of U.S. Patent No. 4,905,845 (Broeker *et al.* '845).

Schell '245 discloses the system as advanced above.

The claim differs from Schell '245 in requiring the containers to be made from a transparent material.

Broeker *et al.* '845 teaches the use of a transparent material.



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*Thus*, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have fabricated the containers from a transparent material for ease in use to the consumer since articles placed therein can be viewed more easily.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schell '245 as applied to claims 1-4, 6-10, 12, 21-23, 25, and 26 above, and further in view of U.S. Patent No. 5,985,328 (Evenson '328).

Schell '245 discloses the system as advanced above.

The claims differ from Schell '245 in requiring a holder attached to the frame (claim 14) to hold a plurality of brochures (claim 13). It is noted that these claims fail to structurally link the holder to the frame beyond the fact that the holder is "attached" to the frame

Evenson '328 teaches a holder for brochures.

*Accordingly*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have placed a holder and brochures in the system of Schell '245 for increased organizational and informational capabilities thereby allowing for increased ease in use to the consumer.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note 5,806,688.

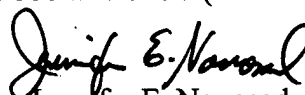
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

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Please note, that due to the relocation of the U.S. Patent and Trademark Office from Arlington to Alexandria, Virginia, the Examiner's phone number will be changed. After April 7, 2005, please contact the Examiner at (571) 272-6832.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703)-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jennifer E. Novosad  
Primary Examiner  
Art Unit 3634

Jennifer E. Novosad/jen  
March 24, 2005